

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

THE B & F SYSTEM, INC.

Plaintiff,

v.

LLOYD J. LEBLANC, JR., ET AL.

Defendants.

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Civil Action No.: 7:07-CV-192

PROTECTIVE ORDER

Whereas, following the Order [Doc. 172] entered on March 17, 2011 the parties to this Consent Protective Order ("parties"), have stipulated that certain documents may be treated as confidential for purposes of this litigation, as specified below, unless and until otherwise ordered by this Court, and have agreed to the terms of this order; accordingly, it is ORDERED:

1. **Scope.** The attachments to Exhibits 317 and 351-369, referenced in Plaintiff's Motion for Protective Order and to File Under Seal (Doc. 171) (hereinafter collectively "documents") shall be subject to this Order concerning confidential information as set forth below.

2. **No Inadvertent Disclosure.** Inadvertent or unintentional production of documents or filing without prior designation as confidential shall not be deemed a waiver, in whole or in part, of the right to designate documents as confidential as otherwise allowed by this Order. The Court specifically orders that the attachment to Exhibit 317, which was inadvertently filed by Plaintiff, shall be sealed, removed from public viewing on CM/ECF, and shall be subject to this Order.

3. **Protection of Confidential Material.**

a. **General Protections.** The documents shall not be used or disclosed by the Defendants, their counsel, or any other persons identified below (¶ 3.b.) for any purposes whatsoever other than preparing for and conducting the litigation in which the documents are being filed (including any appeal of that litigation).

b. **Limited Third Party Disclosures.** The Defendants and their counsel shall not disclose or permit the disclosure of any of the documents to any other person or entity except as set forth in subparagraphs (1)-(5) below, and then only after the person to whom disclosure is to be made has executed an acknowledgment (in the form set forth at Attachment A hereto), that he or she has read and understands the terms of this Order and is bound by it:

(1) counsel and employees of counsel for the Defendants who have responsibility for the preparation and trial of the lawsuit;

(2) the individual defendants and a representative for the corporate defendants¹;

(3) court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents;

(4) consultants, investigators, or experts (hereinafter referred to collectively as "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit; and

(5) other persons only upon consent of the producing party or upon order of the court and on such conditions as are agreed to or ordered.

¹ At or prior to the time such person completes his or her acknowledgment of review of this Order and agreement to be bound by it (Attachment A hereto), counsel shall complete a certification in the form shown at Attachment B hereto. Counsel shall retain the certification together with the form signed by the party or employee.

c. **Control of Documents.** Counsel for the Defendants shall take reasonable efforts to prevent unauthorized disclosure of documents designated as confidential pursuant to the terms of this Order. Counsel for Defendants shall maintain a record of those persons, including employees of counsel, who have reviewed or been given access to the documents along with the originals of the forms signed by those persons acknowledging their obligations under this Order.

d. **Copies.** All copies, duplicates, extracts, summaries or descriptions (hereinafter referred to collectively as "copies") of documents designated as confidential under this Order or any portion of such a document, which are used by Defendants' counsel shall be immediately affixed with the designation "CONFIDENTIAL" if the word does not already appear on the copy. All such copies shall be afforded the full protection of this Order. All originals and copies will remain in the possession of Defendants' counsel. Although limited third party disclosure is permitted under Paragraph 3b and c, Defendants' counsel is prohibited from providing copies, electronic, or otherwise, to any person set forth in Paragraph 3(b)(2).

4. **Filing of Confidential Materials.** Plaintiff is Ordered to file the documents under seal pursuant to Local Rule 5.4.

5. **Treatment on Conclusion of Litigation.**

a. **Order Remains in Effect.** All provisions of this Order restricting the use of the documents shall continue to be binding after the conclusion of the litigation unless otherwise agreed or ordered.

b. **Return of CONFIDENTIAL Documents.** Within thirty (30) days after the conclusion of the litigation, including conclusion of any appeal, all documents treated as confidential under this Order, including copies as defined above (¶3.d.) shall be returned to Plaintiff unless: (1) the parties stipulate to destruction in lieu of return; or (2) as to documents containing the notations,

summations, or other mental impressions of the receiving party, that party elects destruction. Notwithstanding the above requirements to return or destroy documents, counsel may retain attorney work product including an index which refers or relates to information designated confidential so long as that work product does not duplicate verbatim substantial portions of the text of confidential documents. This work product continues to be confidential under the terms of this Order. An attorney may use his or her work product in a subsequent litigation provided that its use does not disclose the confidential documents.

6. **Order Subject to Modification.** This Order shall be subject to modification on motion of any party or any other person who may show an adequate interest in the matter to intervene for purposes of addressing the scope and terms of this Order. The Order shall not, however, be modified until the parties shall have been given notice and an opportunity to be heard on the proposed modification.

7. **No Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating dispositive motions. Nothing herein shall be construed or presented as a judicial determination that any specific document or item of information designated as confidential by counsel is subject to protection under Rule 26(c) of the Federal Rules of Civil Procedure or otherwise until such time as a document-specific ruling shall have been made.

8. **Persons Bound.** This Order shall take effect when entered and shall be binding upon: (1) defense counsel and their respective law firms; and (2) their respective clients.

SO ORDERED, this 24 day of March, 2011.


HUGH LAWSON, SENIOR JUDGE

Approved as to form and content:

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ATTACHMENT A

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

THE B & F SYSTEM, INC.

Plaintiff,

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LLOYD J. LEBLANC, JR., ET AL.

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ACKNOWLEDGMENT OF UNDERSTANDING AND AGREEMENT TO BE BOUND

The undersigned hereby acknowledges that he or she has read the Protective Order, in the above captioned action, understands the terms thereof, and agrees to be bound by such terms. The undersigned submits to the jurisdiction of the United States District Court for the Middle District of Georgia in matters relating to the Protective Order and understands that the terms of said Order obligate him/her to use documents designated CONFIDENTIAL solely for the purposes of the above-captioned action, and not to disclose any such confidential information to any other person, firm or concern.

The undersigned acknowledges that violation of the Protective Order may result in penalties for contempt of court.

Name:

Job Title:

Employer:

Business Address:

Date: _____

Signature: _____

ATTACHMENT B

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
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THE B & F SYSTEM, INC.

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CERTIFICATION OF COUNSEL OF NEED
FOR ASSISTANCE OF PARTY/EMPLOYEE

Pursuant to the Protective Order entered in this action, most particularly the provisions of Paragraph 3.b.2., I certify that the assistance of _____ is reasonably necessary to the conduct of this litigation and that this assistance requires the disclosure to this individual of information which has been designated as CONFIDENTIAL.

I have explained the terms of the Protective Order to the individual named above and will obtain his or her signature on an "Acknowledgment of Understanding and Agreement to be Bound" prior to releasing any confidential documents to the named individual and I will release only such confidential documents as are reasonably necessary to the conduct of the litigation.

The individual named above is:

- ☐ A named party;
- ☐ A representative of a named party. This representative's job title is _____ and work address is _____.

Date: _____

Signature